



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN OPPOSITION TO:

**H.B. NO. 6697: AN ACT CONCERNING THE FORFEITURE OF A MOTOR VEHICLE
OPERATED WHILE CONSUMING OR UNDER THE INFLUENCE OF INTOXICATING
LIQUOR OR DRUGS**

JOINT COMMITTEE ON JUDICIARY
April 15, 2013

The Division of Criminal Justice respectfully recommends the Committee take NO ACTION on H.B. No. 6697, An Act Concerning the Forfeiture of a Motor Vehicle Operated While Consuming or Under the Influence of Intoxicating Liquor or Drugs. This legislation is not necessary and would in fact make what is already the difficult process to effectuate a forfeiture even more cumbersome and potentially unworkable. A better alternative is the reform of the existing *in rem* process governed by Section 54-33g of the General Statutes as proposed by the Division of Criminal Justice in S.B. No. 871 and reiterated in testimony on H.B. No. 5666 and S.B. No. 1158.

The *in rem* law already reaches the conduct covered by H.B. No. 6697, that being the forfeiture of a motor vehicle operated by an individual while under the influence of alcohol or drugs. Indeed, there is at least one case now pending where the State is seeking the forfeiture of a motor vehicle that was alleged to have run down a pedestrian while the operator of the vehicle was under the influence and racing. Not only is this conduct covered by the existing *in rem* law, but the existing law is less cumbersome than the process that is proposed in H.B. No. 6697. This bill takes the most onerous requirements of the *in rem* law and combines them with the most onerous requirements of Section 54-36h, the state's drug asset forfeiture law.

For example, the bill requires a criminal conviction, which would remove the possibility of forfeiture in cases involving a pretrial diversionary program. Further it has a use immunity provision and requires that the State show that all owners knew the vehicle was being misused and it provides that the vehicle may be returned during the pendency of the criminal case. None of these provision exist in the existing ordinary *in rem* law. Finally, H.B. No. 6697 requires that a forfeited vehicle be sold at auction, which would preclude the possibility of an award of part of the proceeds to the police department that seized the vehicle. Any of these provisions will discourage police departments and prosecutors from bringing an action under the bill.

As stated at the outset of this testimony, the Division of Criminal Justice has proposed legislation (S.B. No. 871) to revise the ordinary *in rem* process to make it more efficient and

effective. The *in rem* provisions of S.B. No. 871 offer a workable approach to what is envisioned in H.B. No. 6697, which in and of itself is burdensome to the point where it would likely prove unworkable.

In conclusion, the Division of Criminal Justice wishes to express its appreciation to the Committee for this opportunity to provide input on this matter. We would be happy to provide any additional information the Committee might require or to answer any questions you might have. Thank you.